

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Amendment of Section 73.202(b))

Table of Allotments)

FM Broadcasts Station)

(Farmersville, Texas))

MM Docket No. 96-10

RM-8738

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

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REPLY COMMENTS

Hunt Broadcasting, Inc., licensee of Station KIKM(FM), Sherman, Texas ("KIKM") and permittee of Station KAIH(FM), Jacksboro, Texas ("KAIH") and Cowboy Broadcasting, L.L.C., licensee of Station KVMX(FM), Eastland, Texas ("KVMX"), hereby submit reply comments for the purpose of clarifying or correcting certain portions of the "Joint Counterproposal" submitted on April 5, 1996. These comments will have no effect on the acceptability of the Joint Counterproposal either technically or procedurally. This Reply is designed to provide certain supplemental information to support showings or statements already set forth in the Joint Counterproposal in order to assist the Branch in its evaluation of the proposal. The counterproponents (KIKM/KAIH/KVMX) reserve the right to respond in a further reply pleading to other counterproposals

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filed in this proceeding should the Commission announce their acceptance by Public Notice.^{1/}

1. First, at p. 14, on the first line of ¶22 of the Joint Counterproposal, KDDQ is incorrectly listed as the party expressing a desire to change its community of license. The reference should be to KGRI. We have enclosed a replacement page 14 with the corrected party included. See Exhibit 1.

2. Second, the three channel studies provided for Ardmore, Oklahoma: (1) the current Channel 243A; (2) the proposed Channel 253A; and (3) the alternate Channel 278A; each list the wrong coordinates for the community of Ardmore. The correct community coordinates are 34° 11' 27" and 97° 07' 11". These coordinates have absolutely no effect on the channel studies which used the licensed site, a proposed reference site and the construction permit site, respectively, to demonstrate compliance with Section 73.207 of the Commission's Rules. The community coordinates were offered only to indicate the distances from the various sites to the community of license. Those distances were listed correctly. We have enclosed

^{1/} We are aware of two other counterproposals filed by the April 5, 1996, deadline. Greenville Broadcasting requested Channel 260C3 at Greenville, Texas, as its third local service. Thomas S. Desmond requested Channel 260A at Blue Ridge, Texas, as its first local service. As a preliminary matter, we note that Mr. Desmond failed to state that he would apply for the channel if allotted to Blue Ridge and construct the facility if authorized to do so.

replacement channel studies listing the correct coordinates for the community of Ardmore. See Exhibit 2.

3. Third, at Exhibit E, Figure 15 of the Engineering Statement, the stations which provide service within the current KGRI 60 dBu contour area were depicted. For purposes of clarity and to supplement the showing, we have included an additional map which shades the loss area created by KGRI's proposed move. In addition, a listing of the stations which provide service to the loss area is included. See Exhibit 3. The listing indicates that three stations cover all of the loss area, and the remaining seven stations cover portions of the loss area. As a result and as stated in the Joint Counterproposal, every portion of the loss area will continue to receive at least five aural services.

4. Fourth, at Exhibit E, Figure 17, the stations which provide service to the KIKM loss area were depicted and listed. The attached Engineering Statement clarifies one of the listings (KWSM(FM), Sherman, Texas). KWSM shares the same tower as KIKM and appears to have the same contour on the map. The exhibit did not clearly show that KWSM is one of the stations depicted in the exhibit. See Exhibit 3.

5. Fifth, the Joint Counterproposal contends that the proposed 70 dBu signal of KIKM from its proposed transmitter site on an existing tower will reach less than 50% of the Dallas-Ft. Worth Urbanized Area. We have determined that the

actual extent of the proposed coverage of this Urbanized Area is 5.5% which is far below the 50% standard announced in Headland, Alabama, and Chattahoochee, Florida, 10 FCC Rcd 10352 (1995). See Exhibit 4.

6. Sixth, the statements provided by the licensees of Station KDDQ, Comanche, Oklahoma, and Station KRXZ, Ardmore, Oklahoma, and by the proposed assignee of KRXZ, indicate that they are willing to move to the new channels as set forth in the counterproposal. Harold E. Cochran, licensee of KDDQ, has provided a clarifying statement to indicate that his stated willingness to "move" was meant to include the transmitter sites. Pennok Communications, Inc., and Oklahoma Sports Properties, Inc. (assignor and assignee of KRXZ) are also willing to supply clarifying statements. However, these parties were not available to provide the statements today. The statements will be provided upon receipt by undersigned counsel. Instead, the clarification shall be provided by the agreement they signed prior to filing the Counterproposal. The Joint Counterproposal clearly reported that both KDDQ entered into agreements prior to the filing of the proposal. These agreements are included in this pleading to further demonstrate that these parties were and still are in favor of relocating

their transmitter sites so that both stations can increase to full 6 kW Class A facilities.^{2/} See **Exhibit 5**.

7. The Commission permits parties to a counterproposal to offer minor curative submissions in reply comments. See e.g., Scottsboro, Alabama, Trenton, Georgia, and Signal Mountain, Tennessee, 6 FCC Rcd 6111 (1991) (verification); Canton, Illinois, et al., 3 FCC Rcd 5824 (1988) (verification); and Brooksville and Punxsutawney, Pennsylvania, 3 FCC Rcd 5555 (1988) (reimbursement pledge). See also Charleston, Missouri, 6 FCC Rcd 4396 (1991), where a defective counterproposal was amended to specify a new site and thereby gain acceptance.

8. In Boalsburg, Pennsylvania, et al., 7 FCC Rcd 7653 (1992) at note 7, the Branch stated that "[w]hile we require that all counterproposals be technically and procedurally correct when filed ... we do not absolutely prohibit minor curative submissions." In the Boalsburg case a reimbursement commitment was not timely provided but allowed to be used in reply comments.

^{2/} The alternate channel study for KRXZ on Channel 278A complies with the spacing requirements at the site KRXZ is authorized in its construction permit. Since KRXZ has already expressed a willingness to relocate to another site by the permit, and Channel 278A complies with the spacings at this site, KRXZ's statement of willingness to relocate was not essential to the proposal. However, since Channel 253A is the preferred channel for KRXZ, a clarifying statement is offered.

9. Here the channel studies are in compliance with Section 73.207 and all procedural requirements were followed. The clarifying statements and curative exhibits have no effect on the technical and procedural acceptability of the Joint Counterproposal.

10. The information provided merely corrects minor matters or supports previously filed statements or technical showings or clarifies statements previously made. There are no new issues raised nor new statements made that were not previously discussed.

11. In particular, the clarifying statement and agreements by KDDQ and KRXZ do not relate to technical or procedural matters. There should be no doubt about these parties willingness to relocate their transmitter sites as discussed in the Joint Counterproposal.^{3/} KDDQ and KRXZ stated they were willing to move in accordance with the proposal. Their positions have not changed.

12. Accordingly, the Commission should accept the Joint Counterproposal for consideration in this proceeding as

^{3/} If there were any doubt about the willingness of these parties to relocate, they could have filed reply comments to that effect. Instead, they have or will offer clarifying statements and previously executed agreements.

technically and procedurally correct when filed and allow these curative exhibits to assist the Commission's staff in its evaluation of the proposal.

Respectfully submitted,

**HUNT BROADCASTING, INC.
COWBOY BROADCASTING, L.L.C.**

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Their Counsel

April 22, 1996

EXHIBIT 1

Dallas-Ft. Worth Urbanized Area. Thus, Flower Mound is presumed to be independent. Nevertheless, the previous discussion and materials provided in **Exhibit 3** demonstrate that Flower Mound is indeed a fast growing community with its own governmental structure, cultural organizations and economic base to support its own radio station. Flower Mound is not dependent on Dallas or Ft. Worth for its existence. See also Canovanas, Puerto Rico, et al., 10 FCC Rcd 6673 (1995); Cadiz and Oak Grove, Kentucky, 10 FCC Rcd 10785 (1995); Scotland Neck and Pinetops, North Carolina, 7 FCC Rcd 5113 (1992) recons. denied 10 FCC Rcd 11066 (1995); and Hallie and Ladysmith, Wisconsin, 10 FCC Rcd 9257 (1995).

21. Finally, as shown in the attached engineering study, the proposed reallocation to Flower Mound will increase the 60 dBu coverage area by 21,635 sq. km and a net gain in population of 1,966,281 persons with a loss of the 60 dBu signal from Sherman will affect only 77,212 listeners. However, according to the attached Engineering Statement, the loss area will continue to have at least five full-time radio stations. See e.g., Atlantic and Glenwood, Iowa, 10 FCC Rcd 13160 (1995).

B. Henderson/Tatum

22. In its attached statement, KGRI expresses a desire to change its community of license from Henderson, Texas (1990 Census Population 11,139) to provide a first local service to Tatum, Texas (population 1,289). The proposed new Channel 262A

EXHIBIT 2

ENGINEERING STATEMENT

IN SUPPORT OF A COUNTERPROPOSAL

MM DOCKET 96-10
HUNT BROADCASTING, INC.
COWBOY BROADCASTING, L.L.C.

ALLOCATION STUDY - CH 253A FOR LICENSED SITE OF KRDM
[DEPICTING THAT CH 253A CAN BE SUBSTITUTED WITH SLIGHT ANTENNA RELOCATION]

34 14 15 N. 97 06 45 W.			Class A Current rules spacings Channel 253 - 98.5 MHz				Search Date 04-04-96	
Call	Ch#	City	State	Bear'	Dist'	R'qrd	Margin	
Community of Ardmore 34-11-27 97-07-11			OK	187.3	5.22			
KLUVFM	254C	Dallas	TX	172.1	164.94	165.0	-0.06 *	
KTIJ.C	253C	Elk City	OK	291.3	226.14	226.0	0.14 *	
KDZR	256C	Denton	TX	204.0	102.96	95.0	7.96 *	
KDZR.C	256C	Denton	TX	204.0	102.96	95.0	7.96 *	
KVOOFM	253C	Tulsa	OK	23.1	235.57	226.0	9.57 *	
KLUVFM	254C	Dallas	TX	175.8	183.27	165.0	18.27	
KFYZFM	252C3	Bonham	TX	132.6	111.82	89.0	22.82	
KGAP.C	253C2	Clarksville	TX	109.7	205.73	166.0	39.73	
KFYZFM	252A	Bonham	TX	132.4	111.82	72.0	39.82	
KIRQ	251C1	Lawton	OK	289.0	120.57	75.0	45.57	

EXHIBIT E
Figure 5

ENGINEERING STATEMENT

IN SUPPORT OF A

COUNTERPROPOSAL

NM DOCKET 96-10
HUNT BROADCASTING, INC.
COWBOY BROADCASTING, L.L.C.

ALLOCATION STUDY - CH 243A LICENSED SITE OF KRDM [DEPICTING CH 243A PRESENT SHORT SPACING]

34 12 48 N. 97 11 45 W.			Class A Current rules spacings Channel 243 - 96.5 MHz				Search Date 04-04-96	
Call	Ch#	City	State	Bear'	Dist'	R'grd	Margin	
Community of Ardmore 34-11-27 97-07-11			OK	109.6	7.45			
KRDM	243A	Ardmore	OK	0.0	0.00	115.0	-115.00 *	
KRDM.C	243A	Ardmore	OK	174.1	12.76	115.0	-102.24 *	
KADAFM	244A	Ada	OK	37.3	69.08	72.0	-2.92 *	
KDDQ	244A	Comanche	OK	290.6	70.50	72.0	-1.50 *	
KIKMFM	244A	Sherman	TX	134.3	81.08	72.0	9.08 *	
KIKMFM	244A	Sherman	TX	134.3	81.08	72.0	9.08 *	
ALOPEN	245C2	Comanche	OK	290.6	70.50	55.0	15.50	
KRAV	243C	Tulsa	OK	24.4	241.62	226.0	15.62	
KSCS	242C	Fort Worth	TX	173.2	181.58	165.0	16.58	
KECO	243C1	Elk City	OK	302.1	248.79	200.0	48.79	

EXHIBIT E
Figure 6

ENGINEERING STATEMENT

IN SUPPORT OF A COUNTERPROPOSAL

MM DOCKET 96-10
HUNT BROADCASTING, INC.
COWBOY BROADCASTING, L.L.C.

ALLOCATION STUDY - 278A @ ARDMORE - KRDM CP SITE [DEPICTING CH 287A @ KRDM CP SITE - SLIGHT RELOCATION]

34 03 59 N.	Class A						Search Date
97 06 47 W.	Current rules spacings						04-04-96
		Channel 278 -103.5 MHz					
Call	Ch#	City	State	Bear'	Dist'	R'qrd	Margin
Community of Ardmore			OK	357.4	13.82		
34-11-27							
97-07-11							
KVILFM	279C	Highland Park-Dal	TX	175.6	165.16	165.0	0.16 *
KWFSFM	277C1	Wichita Falls	TX	261.9	133.43	133.0	0.43 *
KRPTFM	279C1	Anadarko	OK	309.9	151.27	133.0	18.27
ALOPEN	281C3	Sanger	TX	190.6	73.00	42.0	31.00
KZUD.C	279C1	Wilburton	OK	52.7	164.10	133.0	31.10
KWSM	281A	Sherman	TX	128.7	64.56	31.0	33.56
ALOPEN	276C2	Atoka	OK	69.4	96.26	55.0	41.26

EXHIBIT E
Figure 7

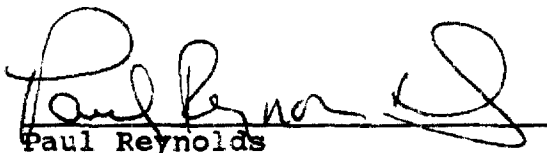
EXHIBIT 3

ENGINEERING CERTIFICATION

STATE OF ALABAMA)
)
BUTLER COUNTY)

Paul Reynolds Certifies the following:

- * That he has completed undergraduate studies in the field of communications at the University of Southern Mississippi.
- * That he has completed course requirements for a Masters Degree in communications at the University of Alabama.
- * That he completed basic electronics at DeVry Technical Institute.
- * That he has been operating as an independent communications consultant since 1980.
- * That he is familiar with the Commission's Rules and Regulations.
- * That the engineering portion of this clarification and the attached modified exhibits were prepared for the petitioners in MM Docket 96-10, Hunt Broadcasting, Inc. and Cowboy Broadcasting, L.L.C. All statements were prepared by him or under his direct supervision.
- * That all information presented is believed to be true and correct and in full compliance of the technical standards contained in the Commission's Rules and Regulations in affect at the time of the petitioner's filing date.


Paul Reynolds

April 20, 1996

301 Cedar Street Suite 4
Greenville, Alabama
(334) 382-3239

ENGINEERING STATEMENT

IN SUPPORT OF A COUNTERPROPOSAL

**MM DOCKET 96-10
HUNT BROADCASTING, INC.
COWBOY BROADCASTING, L.L.C.**

The instant engineering statement is submitted to clarify technical exhibits in a counterproposal for the above captioned rule making. The statement was prepared for Hunt Broadcasting, Inc., licensee of KIKM(FM) Sherman, Texas, and permittee of KAIH(FM), Jacksboro, Texas, and Cowboy Broadcasting, Inc., licensee of KVMX(FM), Eastland, Texas. There were additional consenting petitioners in the instant counterproposal.

EXHIBITS

Exhibit E, Figures 5, 6 & 7 are allocation studies for Ardmore, Oklahoma. The community reference coordinates were manually added after the distance from the antenna reference was computed. The North Latitude reference coordinates for Ardmore were incorrectly listed as; 31° 11' 27". The correct North Latitude coordinates are; 34° 11' 27". The correct coordinates were used in all computations as demonstrated in the exhibits.

Exhibit E, Figure 15 is a computer generated map of the present and proposed KGRI(FM) 60 dBu service. In addition, the AM and FM service contours (60 dBu FM and 2 mV/m AM) were shown. A revised Exhibit E, Figure 15 is included with

a tabular listing of all stations included and their contribution to the required 5 remaining primary service contours. The KGRI loss area is shaded for clarity.

Exhibit E, Figure 17 on file at the Commission is a study which demonstrates that there are five or more primary service signals in the KIKM loss area. The instant modification does not attempt to change this exhibit, but does clarify that the fifth service is provided by KWSM(FM) Sherman, Texas. KWSM shares its antenna supporting structure with the licensed facility of KIKM. KWSM has nine additional meters in its antenna HAAT but with the same ERP (3 KW). On the computer generated map in Exhibit E, Figure 17, the contours of KIKM and KWSM appear the same due to the large scale used in the map.

CONCLUSION

The instant statement does not attempt to change or add to the information submitted in the Hunt/Cowboy Counterproposal. Minor clarifications were needed to better demonstrate the technical and spacing parameters in Exhibit E, Figures 5, 6, 7, 15 and 17.

STATIONS IN KGRI LOSS AREA STUDY

STATION	COMMUNITY OF <u>LICENSE</u>	TYPE <u>SERVICE</u>	CONTOUR <u>NO.</u>	SERVICE <u>NO. \1</u>
KGRI.L	Henderson	FM	1	DNA
KGRI.P	Tatum	FM	2	DNA
KTBB	Tyler	AM	3	1
KOOI	Jacksonville	FM	4	2
KNUE	Tyler	FM	5	3
KWRD	Henderson	AM	6	4 (part)
KSFA	Nacogdoches	AM	7	4 (part)
KZEY	Tyler	AM	8	4 (part)
KJCS	Nacogdoches	FM	9	5 (part)
KYKX	Longview	FM	10	5 (part) \2
KKTX	Kilgore	FM	11	6 (part)
KTBO	Nacogdoches	FM	12	6 (part)

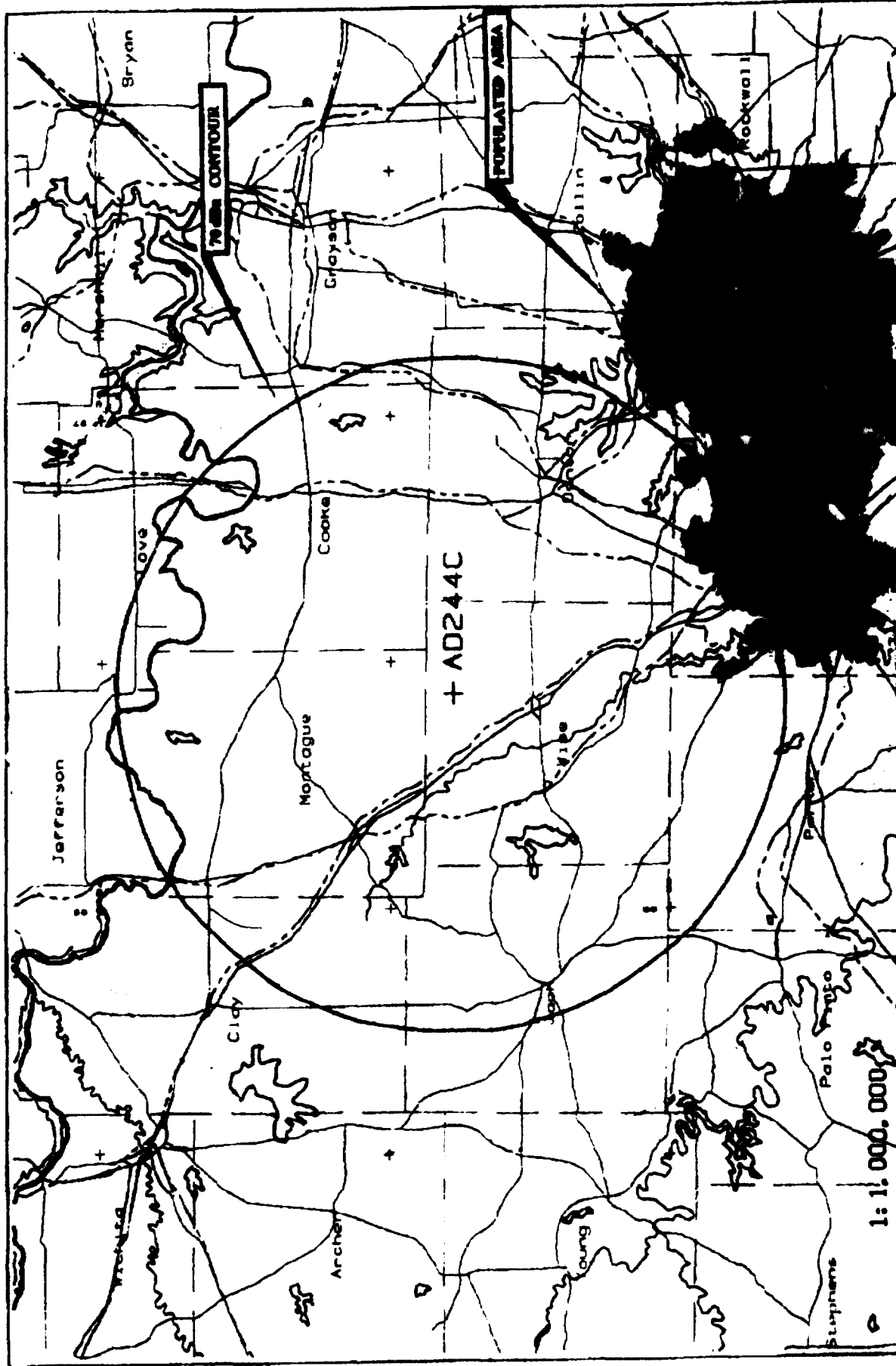
\1 This column depicts a service contour which gives full or partial coverage of the KGRI loss area. When one station's contour did not provide 100% coverage to the loss area it was combined with one or two other stations to provide complete service.

\2 KYKX was used with the CP facility since it is now on automatic program test authority with a Form 302 on file.

EXHIBIT 4

Attached is a map depicting the 70 dBu contour of channel 244C in respect to the urban populated area of Dallas-Fort Worth, Texas. It demonstrates that only a small percent of the Dallas-Fort Worth, Texas urban populated is within the 70 dBu contour of channel 244C.

A mechanical polar planimeter was used to compute the area within the urban populated area of Dallas-Fort Worth and the area of the same that is encompassed by the 70 dBu contour of channel 244C. It was determined that only 5.5% of the urban populated area of Dallas-Fort Worth was within the 70 dBu contour of channel 244C.

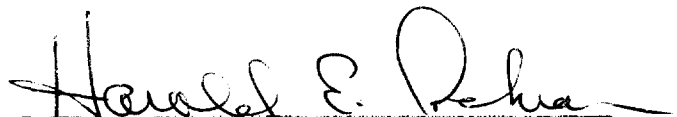


<p>Scale in km</p> <p>0 10 20 30 40 50 60 70</p>		<p>AD244C 244C 100KW</p>	<p>AD244C AT FLOWER MOUND</p>
<p>1:1,000,000</p>		<p>N. Lat. 33 23 12 W. Long. 97 33 57</p>	<p>HUNT - COMBOY - 01/80</p>

EXHIBIT 5

Station KDDQ(FM)
Comanche, Oklahoma

I wish to clarify my statement which was filed as part of the Joint Counterproposal of Hunt Broadcasting, Inc., and Cowboy Broadcasting, L.L.C. Prior to the filing of the counterproposal, I entered into an agreement with Hunt Broadcasting and Cowboy Broadcasting to change channels and relocate KDDQ's transmitter site. I fully intended my statement to mean that I am willing to relocate KDDQ's transmitter site to comply with the Commission's spacing rules. At the application stage, I would like to have the option to operate on Channel 246A from KDDQ's current site under the Commission's contour protection rules. Nevertheless, I fully intend to relocate KDDQ's transmitter site so that the station can increase to 6 kW.


Harold E. Cochran
Licensee

CONSENT AGREEMENT

This Agreement is made and entered into this 4th day of April, 1996, by and between Hunt Broadcasting, Inc., licensee of Station KIKM(FM), Sherman, Texas ("KIKM"), and Harold Cochran, licensee of Station KDDQ(FM), Comanche, Oklahoma ("KDDQ").

WHEREAS, KIKM and KDDQ intend to file a petition for rule making with the Federal Communications Commission ("FCC") to change the channels allotted for Stations KIKM and KDDQ; and

WHEREAS, KIKM intends to upgrade its class of channel from Channel 244 to Channel 244C at a specific transmitter site and community of license; and

WHEREAS, KDDQ was previously granted an upgrade to Channel 245C2 but never implemented the power increase and is currently operating as a Class A station on Channel 244A; and

WHEREAS, KDDQ intends to downgrade its channel from Channel 245C2 to Channel 246A and relocate its transmitter site if necessary; and

WHEREAS, the parties intend to file petitions and, if approved, applications to implement the rule making order which would serve the public interest by providing a first local service and better serve the public;